

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HAROLD B. BROOKS,

Petitioner,

v.

R. FOX,

Respondent.

Case No. [16-cv-06418-HSG](#)

**ORDER OF TRANSFER; DENYING
MOTION TO DIMISS AS MOOT**

Re: Dkt. No. 15

Petitioner, a state prisoner incarcerated at California Medical Facility in Vacaville, California, filed this *pro se* writ of habeas corpus pursuant to 28 U.S.C. § 2254. Now pending before the Court is Respondent's motion to transfer or, in the alternative, dismiss the petition. Dkt. No. 15. Petitioner has filed an opposition. Dkt. No. 18. Respondent has not filed a reply, and the time to do so has long since passed. Having reviewed the petition and the pleadings, the Court will TRANSFER this action.

Petitioner was convicted in San Francisco County, which lies in this district. However, the petition challenges the execution of his sentence. Specifically, Petitioner alleges that the Board of Prison Terms erred in denying him parole, and that his ongoing confinement is disproportionate to his culpability and violates the Eighth Amendment. Dkt. No. 9 at 5; Dkt. No. 13 at 2. A petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a state court of a state which contains two or more federal judicial districts may be filed in either the district of conviction or the district of confinement. *See* 28 U.S.C. § 2241(d). Petitioner is correct that each of such districts has concurrent jurisdiction to entertain the petition. *Id.* However, the district court for the district where the petition is filed may transfer the petition to the other district in the furtherance of justice, and the district of conviction is not required to hear the petition. *See*

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